

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 6444 of 2005

Between:

R.Sudharkar, S/o.Subrahmanyam,
O/o.Divisional Electrical Engineer (Operations),
Southern Power Distribution Company,
Nellore, R/o.Eduru, Nellore, District.

..... PETITIONER

AND

- 1 The Superintending Engineer (Operations),
Southern Power Distribution Company, Nellore.
- 2 The Divisional Electrical Engineer (Operations),
Southern Power Distribution Company, Nellore.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ order or direction(s) essentially in the nature of writ of certiorari as under:
a) Declare the action of the respondents in cancelling the appointment orders issued in favour of the petitioner vide Memo No.DEE.O.WLR.Adm.U.I.D.No.549, dated 18-3-2005 of the respondents as arbitrary, illegal and violative of Articles 14, 16 of the Constitution of India; b) Declare that the petitioner is fully eligible and qualified to be appointed as Junior Lineman in the office of the Divisional Electrical Engineer (Operations), Nellore; c) Direct the respondents to continue the petitioner as Junior Lineman in pursuance to the appointment orders dated 11-3-2005 with all consequential benefits and pass such other order or orders as this Hon'ble court may deem fit, proper and necessary in the circumstances of the case.

Counsel for the Petitioner:MR.ABHINAND KUMAR SHAVILI

Counsel for the Respondents: MR.SAMINENI KISHORE

The Court made the following:

ORAL ORDER:-

This Writ Petition is filed to declare the action of the respondents in canceling the appointment orders issued in favour of the petitioner vide Memo, dated 18.03.2005, as arbitrary and illegal.

According to the petitioner, in pursuance of the notification, dated 14.08.2003, issued by the respondents to the post of Junior Lineman, he attended the interview on 22.11.2004. On being successful in the selections, the respondents issued an appointment order on 11.03.2005 as Junior Lineman on yearly contract basis. When the petitioner attended the duty on 18.03.2005, the respondents issued the impugned Memo, dated 18.03.2005, wherein his appointment order was cancelled. Therefore, the respondents cannot unilaterally cancel his appointment without assigning any reasons. Hence, the Writ Petition.

The respondents filed their counter-affidavit stating that the petitioner was disqualified in Pole Climbing Test conducted on 22.01.2004, but erroneously his name was included in the list of selected candidates and allotted him to Operation Division, Nellore.

The said fact was noticed by the respondents, on verification of the dockets and thus the petitioner became ineligible to the post of Junior Lineman and therefore, the impugned proceedings have been issued.

Learned counsel appearing for the petitioner contended that without assigning any reasons and without giving any opportunity to the petitioner, the impugned proceedings have been issued, and therefore, it suffers from violation of the principles of natural justice. He further contended that the plea taken in the counter-affidavit cannot substitute the reasons in the impugned proceedings, and therefore, the petitioner is eligible for the post of Junior Lineman.

Learned standing counsel appearing for the respondents contended that the appointment order was issued erroneously to the petitioner and the same was cancelled after noticing that the petitioner was disqualified in Pole Climbing Test.

The appointment of the petitioner is for a period of one year, which is extendable. The said appointment has been cancelled by virtue of the impugned proceedings, which reads as under:

“Consequent on cancellation of allotment orders in the reference (3) cited, the orders appointing the following individuals as JLM (yearly contract basis) are hereby cancelled.

1. P. Mallikarjuna
2. S. Sudhakar”

As rightly contended by the learned counsel for the petitioner, the order does not contain any reasons at all. When a substantive right of the petitioner is being affected, even administrative authorities are required to follow the principles of natural justice. It may be a fact that the petitioner might not have got selected in the Pole Climbing Test as contended by the respondents and the said fact might have brought to the notice of the appointing authority subsequently.

Under those circumstances, either the order should contain the reasons or the appointing authority ought to have given a notice to the petitioner before canceling the appointment order. Therefore, the order suffers from serious legal infirmities, as it does not contain any reasons. Hence, the order, dated 18.03.2005, is set aside and the matter is remitted to the Divisional Electrical Engineers (Operations), Nellore, to give an opportunity to the petitioner and dispose of the matter after recording his reasons, within a period of two weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is allowed. No order as to costs.

22-06-2005

To

- 1 The Superintending Engineer (Operations),
Southern Power Distribution Company, Nellore.
- 2 The Divisional Electrical Engineer (Operations),
Southern Power Distribution Company, Nellore.
- 3 2 CD copies